

Church of Scientology; 'auditing'; charitable contribution. A 'fixed donation' paid to the Church of Scientology for general education courses, religious education courses, and 'auditing' and processing courses that does not exceed the fair market value of these courses is not a charitable contribution within the meaning of section 170 of the Code.

Advice has been requested whether, under the circumstances described below, amounts paid by a taxpayer to a Church of Scientology are charitable contributions within the meaning of section 170 of the Internal Revenue Code of 1954.

The taxpayer, a member (but not a minister or employee) of the Church of Scientology, a church that propagates a religious faith known as 'Scientology' and purports to treat the spirit of human beings by the practice of 'auditing' (or 'processing'), subscribed to a course of audits in that church. Auditing is described by the church as a pastoral counseling procedure involving the counseling of one parishioner by one minister, through which 'a person is enabled to turn his attention to the more spiritual: his awareness of life, death, his relationship to the physical universe, and his relationship to the Supreme Being.' In addition, the church states that 'The results claimed and benefits obtainable from auditing and training, though they may be observable to others, are personal and are experienced by the individual himself or herself.' The counseling and training subjects provided by the Church of Scientology may be divided into three broad categories:

- (1) General education courses dealing with subjects of general education such as grammar.
- (2) Religious education courses directed to the training of individuals who intend to be Scientology ministers.
- (3) Auditing and processing courses intended to acquaint members or prospective members of the church with the history and tenets of the church.

The church expects a participant in a course of study not to proceed with further study until personally satisfied with the result of the courses previously undertaken. However, other course, often in another category, may be recommended to the participant to help the participant achieve such personal satisfaction.

The auditing courses may be provided at no charge to some individuals, but they were offered to the taxpayer for a specified sum of money described by the church as a 'fixed donation.' If a course of study is paid for well in advance, a so-called 'advance donation discount' will be awarded to reduce the cost of the course to the participant. The church also advises that refunds

are made to any dissatisfied participant within certain time limitations. The Church of Scientology to which the taxpayer paid the 'fixed donation' for the course of audits in this case is an organization contributions to which are deductible pursuant to section 170 of the Code.

Section 262 of the Code provides that, except as otherwise expressly provided by law, no deduction shall be allowed for personal, living, or family expenses.

Section 170(a) of the Code provides, subject to certain limitations, for the allowance of a deduction for charitable contributions or gifts to or for the use of organizations described in section 170(c), payment of which is made during the taxable year.

A contribution or gift, for the purposes of section 170 of the Code, is a voluntary transfer of money or property made by the transferor without receipt or expectation of commensurate benefits or privileges. See H.R. Rep. No. 1337, 83d Cong., 2d Sess. A44 (1954); S. Rep. No. 1622, 83d Cong., 2d Sess. 196 (1954).

In this case, given the nature of the first two categories of subjects, the person subscribing to these audits (or courses) receives (or reasonably expects to receive) individual benefits in the form of general education or vocational training rendered by a minister of the church. Moreover, the discount for early payment for the courses, as well as the refund feature, support the conclusion that the transaction involves a payment in the form of a purchase of something of value.

The third class of course (that is, auditing and processing courses) are religious in nature and nonvocational. Payments for similar auditing and processing courses were held, in *Brown v. Commissioner*, 62 T.C. 551 (1974), *aff'd per curiam*, 523 F.2d 365 (8th Cir. 1975), to be nondeductible as medical expenses under section 213 of the Code on the ground that they were 'somewhat comparable to the payments by a taxpayer of tuition for his child at a regular private educational institution primarily for the child's education.'

It has been held that a charitable contribution deduction under section 170 of the Code is not allowable with respect to tuition fees or fixed donations made by a taxpayer to a private or church school, contributions to which are deductible, on behalf of the taxpayer's child or children attending the school. Rev. Rul. 54-580, 1954-2 C.B. 97; Rev. Rul. 71-112, 1971-1 C.B. 93. Such amounts are not gifts to the school, but are consideration between the parties. *Oppewal v. Commissioner*, 468 F.2d 1000 (1st Cir. 1972). The denial of the deduction has been upheld even though a significant element of the church school curriculum is religious education. *DeJong v. Commissioner*, 36 T.C. 896 (1961), *aff'd*, 309 F.2d 373 (9th Cir. 1962). See also Rev. Rul. 76-232, 1976-1 C.B. 62, which holds that participants in a weekend marriage seminar

conducted by a charitable organization are not entitled to a charitable contribution deduction for any part of a donation made to the organization at the conclusion of the seminar unless the participants establish that the amount donated exceeds the value of all benefits and privileges received and that the amount claimed as a charitable contribution is the amount of such excess.

See also Rev. Rul. 67-246, 1967-2 C.B. 104, holding that a payment to a charitable organization qualifies as a deductible gift only to the extent that it is shown to exceed the fair market value of any consideration received in the form of privileges or other benefits.

Accordingly, the taxpayer is not entitled to a charitable contribution deduction for any part of the 'fixed donation' made to the church for payment of the three categories of auditing courses unless the taxpayer establishes that the 'fixed donation' exceeded the fair market value of the benefits and privileges received and that the amount claimed as a charitable contribution is the amount of such excess.